

[REDACTED]

From: Gallagher, Ellen
Sent: Friday, December 22, 2017 10:58 AM
To: [REDACTED]@osc.gov; [REDACTED]@osc.gov
Cc: [REDACTED]
Subject: RE: Outstanding Request for Reconsideration
Attachments: OIG-18-32-Dec17.pdf; DOJ OIG Report on BOP and Segregated Housing 2017.pdf; pdoc_finding_2-24-14.pdf

Importance: High

Mr. Leavitt and Ms. Mullen,

With regard to my outstanding request for reconsideration in **OSC-DI-14-5115**, I wanted to share the attached information and suggest:

- The December 2017 DHS OIG report regarding the treatment and care of immigration detainees confirms the existence of serious violations, including the misuse of solitary confinement, in 4 of the 5 facilities visited. I believe this report barely scratches the surface in terms of analyzing, exposing, and requiring an adequate plan to address the ongoing, systemic abuse of immigration detainees in over 200 facilities nationwide. The nature and extent of this abuse which in many cases rises to the level of torture is apparent in hundreds of email messages, documents, and reports I have shared with your office since 2014.
- For example, weekly and 2015 & 2016 fiscal year segregation reports as well as medical evaluations and reviews show seriously mentally ill and other medically vulnerable detainees being placed into administrative and disciplinary segregation for reasons directly related to – or caused by – their illness; denied proper medical care and attention, even when suicidal; and de-scheduled from immigration court appearances that otherwise might have enabled them to seek bond, legal protection and counsel. Some detainees were punished with disciplinary segregation for expressing and acting out suicidal thoughts.
- Perhaps the most egregious fact pattern featured in my complaint and in requests for reconsideration pertains to [REDACTED]. Despite diagnoses of Schizoaffective Disorder with Hallucinations and Suicidal Ideation, he spent months in and out of solitary confinement before being sentenced to 390 more days for throwing a cup of his own feces at a security guard. Though covered by the *Franco-Gonzalez v. Holder* litigation, [REDACTED] lacked counsel and was at least four times de-scheduled from appearing before an immigration judge notwithstanding the fact that USCIS deemed him to have a credible fear of returning to his home country months after his initial placement in detention. Other segregation reports featured a mentally ill detainee “found guilty of possession of an unauthorized item” – a green pepper “hidden” in his sock and sentenced to 15 days in disciplinary segregation; another man received 15 days of disciplinary segregation after he repeatedly threatened to commit suicide, jumped from his bunk bed onto a cement floor, then tried to wrap a towel around his neck; a third – also mentally ill – individual was placed in disciplinary segregation pending investigation because he “admitted blowing kisses to [the] GEO officer posted in [the] dormitory.” As summarized in the July 23, 2014 Memorandum to the former DHS Deputy Secretary (this formed the basis of **OSC-DI-14-5115** and featured [REDACTED] case along with four others), “[s]egregation, also termed ‘twenty-four hour lockdown,’ was and still is routinely applied to immigration detainees for: ‘violations of the rules/regulations; inappropriate behavior; self-threatening behavior; posing a threat to the security of the facility; and to avoid conflict between yourself and others.’”

- The DOJ in examining the use of solitary confinement for federal and state inmates with mental illness has utilized far more detailed and clinically appropriate methodologies than have been applied to date by the DHS OIG, or any other independent executive or legislative entity examining conditions in immigration detention. Two illustrative DOJ reports are attached and were earlier forwarded to your office and to the DHS OIG. Again, the DOJ reviewed settings designed to house individuals for criminal, not civil violations. As emphasized in the December 2017 DHS OIG report (p. 1), **"All ICE detainees are held in civil, not criminal, custody, which is not supposed to be punitive."**

Given the severe health and safety issues contained in my complaint and the apparent lack of any meaningful plan by DHS or ICE to address them, I am reiterating my request for your direct involvement to alleviate lasting harm. I hope you will review the full contents of **OSC-DI-14-5115** as you weigh a final decision in this matter.

Sincerely,

Ellen Gallagher



From: Gallagher, Ellen
Sent: Sunday, December 03, 2017 7:51 PM
To: [REDACTED]@osc.gov'; [REDACTED]@osc.gov'
Cc: [REDACTED]
Subject: Outstanding Request for Reconsideration

Mr. Leavitt and Ms. Mullen,

I am writing to request your review of the attached material pertaining to the use of segregation, a.k.a. solitary confinement for civil detainees in immigration custody. It has been over three years since I filed **OSC-DI-14-5115**. In the interim, as captured in the attached **Summary of Events 2014-2016**, my whistleblowing activity has extended to the Department of Homeland Security (DHS) Office of the Inspector General (OIG), and various House and Senate Oversight Committees, including the Senate Judiciary Committee (see Grassley correspondence dated 6/29/2015) and the House Oversight and Government Reform Committee. In fact, Mr. Leavitt, in May of 2016, you kindly set up a lengthy telephone conversation on this topic involving me and several majority and minority committee staff.

At various points, as described in the 8/28/2015, 9/30/2015 and 6/6/2016 memoranda, the OSC weighed the role it should properly play given the DHS OIG's announced projects and verbal commitments. Specifically, the DHS OIG indicated publicly and to the OSC that it would examine the use of segregation for immigration detainees, particularly those with mental health conditions, to determine whether **(1) facilities use segregation properly, (2) facility personnel follow applicable detention standards, and (3) facilities report segregation data accurately and promptly.**

On September 29, 2017, the DHS OIG released a report focused on #3, **but not #s 1 & 2** (see <https://www.oig.dhs.gov/sites/default/files/assets/2017-11/OIG-17-119-Sep17.pdf>). In March 2017, the DHS OIG issued a management alert, <https://www.oig.dhs.gov/sites/default/files/assets/Mga/2017/oig-mga-030617.pdf>, describing conditions at the Theo Lacy Facility in Orange County, CA. Aside from these publications, it does not appear that the

DHS OIG has investigated or released any qualitative or substantive data or conclusions regarding the use and impact of segregation for civil detainees in immigration custody.

Because I believe the concerns set forth in my original disclosure, **OSC-DI-14-5115**, and in subsequent motions to reconsider remain largely if not completely unaddressed, I am seeking your direct involvement to alleviate ongoing harm. There are numerous recent reports and articles showing the nature and extent of this harm; if you would like me to forward them to you, please indicate.

Sincerely,

Ellen Gallagher

From: Gallagher, Ellen
Sent: Monday, November 13, 2017 11:28 AM
To: [REDACTED]@osc.gov'
Cc: [REDACTED]
Subject: FW: OSC Documents

Ms. Biggs,

Can you please confirm receipt of my earlier message with attachments and also advise as to OSC's potential reengagement?

Thank you,

Ellen

From: Gallagher, Ellen
Sent: Monday, November 06, 2017 8:16 AM
To: [REDACTED]@osc.gov'
Subject: OSC Documents

Ms. Biggs,

Ms. Gorman suggested that I reach out to you directly in terms of the below inquiry. Also, the attached documents should be included in my OSC disclosure file but I am resending them just in case.

Sincerely,

Ellen M. Gallagher

[REDACTED]

From: Gallagher, Ellen
Sent: Friday, October 27, 2017 9:53 AM

To: [REDACTED]
Subject: RE: Hello

Karen,

After speaking with Ms. Biggs and searching my files, I found and reviewed the attached documents. I did not find a reply from the OSC to the June 6, 2016 motion.

Would it be appropriate for me to share that motion with Ms. Biggs to see if a written reply was ever generated?

[REDACTED]

Sincerely,

Ellen